

110TH CONGRESS
2D SESSION

H. R. 5647

To provide public charter school options for those students that attend schools that are in need of improvement and have been identified for restructuring and those schools with a graduation rate of less than 60 percent, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2008

Mr. EMANUEL introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide public charter school options for those students that attend schools that are in need of improvement and have been identified for restructuring and those schools with a graduation rate of less than 60 percent, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **TITLE I—PELL GRANTS FOR**
2 **CHILDREN**

3 **SECTION 101. SHORT TITLE.**

4 This title may be cited as the “Pell Grants for Kids
5 Act of 2008”.

6 **SEC. 102. PURPOSE.**

7 It is the purpose of this title to support State efforts
8 to enable students who attend an identified school or a
9 school with low graduation rate to attend a public charter
10 school.

11 **SEC. 103. SUPPORT FOR PROVEN CHARTER SCHOOLS AND**
12 **INCREASING THE SUPPLY OF HIGH QUALITY**
13 **CHARTER SCHOOLS.**

14 (a) GRANTS.—Subject to advance appropriations, the
15 Secretary shall award grants, on a competitive basis, to
16 eligible entities for the purpose of enabling such entities
17 to make subgrants to eligible public charter schools to
18 allow such schools to serve additional eligible students.

19 (b) PRIORITIES.—In awarding a grant under this sec-
20 tion, the Secretary shall—

21 (1) give priority to an eligible entity—

22 (A) that serves an area that has a large
23 percentage of students who are enrolled in iden-
24 tified schools or public schools with a gradua-
25 tion rate of 60 percent or less as defined by

1 their State educational agency and other factors
2 determined appropriate by the Secretary;

3 (B) that oversees one or more academically
4 successful eligible public charter schools as de-
5 termined by the Secretary using adequately
6 yearly progress measures, State accountability
7 measures, and other measures deemed appro-
8 priate by the Secretary;

9 (C) that is effectively monitoring the aca-
10 demic success of eligible public charter schools
11 under the jurisdiction of the eligible entity;

12 (D) that ensures that eligible public char-
13 ter schools under the jurisdiction of the eligible
14 entity receive funding (including funding for
15 school facilities) on a per pupil basis that is
16 commensurate with the amount of funding (in-
17 cluding funding for school facilities) provided by
18 the eligible entity to traditional public schools;

19 (E) that ensures that each local edu-
20 cational agency under the jurisdiction of the eli-
21 gible entity provides, in a timely manner, each
22 public charter school under the jurisdiction of
23 such local educational agency with the Federal,
24 State, and local funds to which such school is
25 entitled under applicable law; and

1 (F) that is under the jurisdiction of a
2 State that—

3 (i) requires public charter schools to
4 meet State standards, administer State as-
5 sessment tests to enrolled students, and
6 participate in State accountability meas-
7 ures;

8 (ii) ensures that each public charter
9 school under the jurisdiction of the State
10 has—

11 (I) a high degree of autonomy
12 over the charter school's budgets and
13 expenditures; and

14 (II) a written contract with an
15 authorized public chartering agency
16 that ensures that the school has an
17 independent governing board and such
18 board has a level of autonomy under
19 such contract that the Secretary de-
20 termines is appropriate; and

21 (2) consider the number of public charter
22 schools under the jurisdiction of the State, the num-
23 ber of students enrolled in charter schools, and the
24 number of children on the waiting lists for public

1 charter schools operating under the jurisdiction of
2 the State.

3 (c) AMOUNT OF GRANTS.—In determining the
4 amount of a grant to be awarded under this section to
5 an eligible entity, the Secretary shall take into consider-
6 ation—

7 (1) the number of eligible public charter schools
8 under the jurisdiction of the eligible entity that are
9 operating, are approved to open, or are likely to
10 open during the duration of the grant;

11 (2) the number of seats for new students that
12 could be created in such schools with such grant;
13 and

14 (3) the number of eligible students in the State.

15 (d) APPLICATION REQUIREMENTS.—

16 (1) IN GENERAL.—To be considered for a grant
17 under this title, an eligible entity shall submit an ap-
18 plication to the Secretary at such time, in such man-
19 ner, and containing such information as the Sec-
20 retary may require.

21 (2) CONTENTS.—The application under para-
22 graph (1) shall include, at a minimum, the following:

23 (A) PLAN.—A plan for—

1 (i) identifying eligible public charter
2 schools that are willing to receive financial
3 assistance under a grant under this title;

4 (ii) enrolling eligible students in eligi-
5 ble public charter schools;

6 (iii) increasing the number of seats
7 for eligible students in eligible public char-
8 ter schools;

9 (iv) ensuring that eligible public char-
10 ter schools receiving assistance under this
11 title enroll—

12 (I) eligible students through a
13 lottery for admission that is separate
14 from the lottery for general admission
15 to such school and is limited to the
16 number of additional seats the schools
17 is able to create as a result of the fi-
18 nancial assistance received by such
19 school under this title; and

20 (II) siblings of students currently
21 enrolled in the eligible public charter
22 school as a result of the financial as-
23 sistance received by the school under
24 this title; and

1 (v) the manner in which the eligible
2 entity will—

3 (I) work with identified schools
4 under their jurisdiction and the
5 schools' local educational agency to
6 identify the parents of the eligible stu-
7 dents, consistent with the require-
8 ments of the Family Educational
9 Rights and Privacy Act of 1974 (20
10 U.S.C. 1232g);

11 (II) notify parents of eligible stu-
12 dents of the option to transfer to an
13 eligible public charter school receiving
14 financial assistance under this title;

15 (III) provide information to par-
16 ents of eligible students to enable the
17 parents to make informed decisions
18 regarding such students;

19 (IV) ensure that an eligible stu-
20 dent can continue to attend an eligible
21 public charter school if the public
22 charter school such student was at-
23 tending in the previous school year is
24 no longer an eligible public charter
25 school; and

1 (V) use funds received under this
2 title.

3 (B) CHARTER SCHOOL INFORMATION.—

4 The number of eligible public charter schools
5 that are operating in the State that has juris-
6 diction over the eligible entity, the number of
7 eligible public charter schools approved to open
8 in the next school year, the number of eligible
9 public charter schools likely to open during the
10 duration of the grant to the eligible entity, the
11 number of seats in eligible public charter
12 schools that could be created if the grant is
13 awarded, and any other information the Sec-
14 retary may require.

15 (C) TRADITIONAL PUBLIC SCHOOL INFOR-
16 MATION.—A list of identified schools and
17 schools with a graduation rate of 60 percent or
18 less as defined by their State educational agen-
19 cy, including the name of each such school and
20 such demographic and socioeconomic informa-
21 tion as the Secretary may require.

22 **SEC. 104. USE OF FUNDS.**

23 (a) IN GENERAL.—An eligible entity receiving a
24 grant under this title may only use the funds for the fol-
25 lowing:

1 (1) SUBGRANTS.—To make a subgrant to an el-
2 igible public charter school, in such amount as the
3 Secretary determines is appropriate—

4 (A) to allow increases in such school’s en-
5 rollment of eligible students;

6 (B) to support the construction and phys-
7 ical expansion of school buildings and campuses
8 to meet such increased enrollment;

9 (C) to pay costs associated with hiring ad-
10 ditional teachers to serve eligible students;

11 (D) to support necessary operation activi-
12 ties associated with the school serving addi-
13 tional eligible students; and

14 (E) to provide transportation to eligible
15 students to and from school.

16 (2) ADMINISTRATIVE EXPENSES.—To pay the
17 administrative expenses of the eligible public charter
18 schools and the eligible entity, but not to exceed five
19 percent of the grant.

20 (3) CREDIT ENHANCEMENT AND REVOLVING
21 LOAN FUND.—To make a competitive grant that
22 does not exceed 20 percent of the amount of the
23 grant to an eligible entity for credit enhancement (as
24 defined in Sec. 5230 of the Elementary and Sec-
25 ondary Education Act of 1965 (20 U.S.C. 7223i))—

1 (A) to conduct credit enhancement initia-
2 tives (as defined under Section 5221 of the Ele-
3 mentary and Secondary Education Act of 1965
4 (20 U.S.C. 7223)) in support of facility assist-
5 ance for public charter schools serving eligible
6 students; and

7 (B) to establish a revolving loan fund for
8 use by an eligible public charter school receiving
9 a subgrant under paragraph (1) from the eligi-
10 ble entity to allow such school to expand to
11 serve eligible students.

12 (b) SPECIAL RULES ON FREQUENCY.—

13 (1) ELIGIBLE PUBLIC CHARTER SCHOOLS WITH
14 ENROLLED STUDENTS.—Each eligible entity to
15 which the Secretary awards a grant under this title
16 may award a subgrant to an eligible public charter
17 school described in section 106(5)(A) for each year
18 an eligible student attends such school.

19 (2) LIMITATIONS ON SUBGRANTS TO DEVEL-
20 OPERS.—Each eligible entity to which the Secretary
21 awards a grant under this title shall not award a
22 subgrant to an eligible public charter school de-
23 scribed in section 106(5)(B) for more than two con-
24 secutive school years.

1 (c) NONPROFIT ASSISTANCE.—In carrying out ad-
2 ministrative tasks and outreach with financial assistance
3 provided under this title, eligible entities may contract
4 with an organization described in section 501(c)(3) of the
5 Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and
6 exempt from tax under section 501(a) of such Code (26
7 U.S.C. 501(a)).

8 (d) FINANCIAL RESPONSIBILITY.—The financial
9 records of each eligible entity and eligible public charter
10 school receiving a grant or subgrant under this title shall
11 be maintained in accordance with generally accepted ac-
12 counting principles and shall be subject to an annual audit
13 by an independent public accountant.

14 (e) NATIONAL EVALUATION.—From the amounts ap-
15 propriated to carry out this title, the Secretary may use
16 not more than one percent of such amounts to conduct
17 an annual independent evaluation, by grant or contract,
18 of the activities carried out under this title, including an
19 assessment of the impact of such activities on student
20 achievement. The Secretary shall submit to Congress a re-
21 port on the results of the evaluation before the end of the
22 one-year period beginning on the date of enactment of this
23 title and every one year thereafter.

1 **SEC. 105. REPORTS.**

2 Each eligible entity receiving a grant under this title
3 shall prepare and submit to the Secretary the following:

4 (1) REPORT.—A report that contains such in-
5 formation as the Secretary may require concerning
6 use of the grant funds by the eligible entity, includ-
7 ing the academic achievement of the students at-
8 tending eligible public charter schools as a result of
9 the grant. Such report shall be submitted before the
10 end of the two-year period beginning on the date of
11 enactment of this title and every two years there-
12 after.

13 (2) PERFORMANCE INFORMATION.—Such per-
14 formance information as the Secretary may require
15 for the national evaluation conducted under section
16 104(e).

17 **SEC. 106. DEFINITIONS.**

18 In this title, the following definitions apply:

19 (1) ADEQUATE YEARLY PROGRESS.—The term
20 “adequate yearly progress” has the meaning given
21 such term in section 1111(b)(2) of the Elementary
22 and Secondary Education Act of 1965 (20 U.S.C.
23 6311(b)(2)).

24 (2) ADMINISTRATIVE EXPENSES.—The term
25 “administrative expenses” includes costs associated
26 with—

1 (A) recruiting and selecting eligible stu-
2 dents;

3 (B) outreach to parents; and

4 (C) providing information to parents and
5 school officials.

6 (3) ELIGIBLE ENTITY.—The term “eligible enti-
7 ty” means—

8 (A) a State educational agency;

9 (B) an authorized public chartering agen-
10 cy;

11 (C) a local educational agency; or

12 (D) in the case of a State in which a grant
13 is not made under section 103 in a fiscal year
14 to an agency described in subparagraphs (A),
15 (B), or (C), an organization described in section
16 501(c)(3) of the Internal Revenue Code of 1986
17 (26 U.S.C. 501(c)(3)) and exempt from tax
18 under section 501(a) of such Code (26 U.S.C.
19 501(a)).

20 (4) ELIGIBLE STUDENT.—The term “eligible
21 student” means a student who—

22 (A) with respect to a school identified for
23 restructuring under section 1116(b)(8) of the
24 Elementary and Secondary Education Act of
25 1965 (20 U.S.C. 6316(b)(8))—

1 (i) is eligible to enroll in the earliest
2 grade offered by the school and attended
3 the school for the entire school year pre-
4 ceding the date of such identification; or

5 (ii) transfers to the school to attend
6 any grade beyond the earliest grade offered
7 by the school and attends the school for
8 the remainder of the school year in which
9 such transfer occurs; or

10 (B) in the immediately preceding school
11 year, occupied a seat created as a result of fi-
12 nancial assistance under this title at an eligible
13 public charter school.

14 (5) ELIGIBLE PUBLIC CHARTER SCHOOL.—The
15 term “eligible public charter school” means—

16 (A) a charter school (as defined under sec-
17 tion 5210 (1) of the Elementary and Secondary
18 Education Act of 1965 (20 U.S.C. 7221i(1)))
19 (including the campuses of such school) that—

20 (i) has made adequate yearly progress
21 for the last two consecutive school years;
22 or

23 (ii) successfully meets qualifications
24 set forth by the State educational agency
25 or the Secretary; or

1 (B) a charter school that is being devel-
2 oped by developer (as defined under section
3 5210(2) of the Elementary and Secondary Edu-
4 cation Act of 1965 (20 U.S.C. 7221i(2))).

5 (6) IDENTIFIED SCHOOL.—The term “identified
6 school” means a school identified for restructuring
7 under section 1116(b)(8) of the Elementary and
8 Secondary Education Act of 1965 (20 U.S.C.
9 6316(b)(8)).

10 (7) TRADITIONAL PUBLIC SCHOOL.—The term
11 “traditional public school” does not include charter
12 schools as defined under section 5210(1) of the Ele-
13 mentary and Secondary Education Act of 1965 (20
14 U.S.C. 7221i(1)).

15 (8) SCHOOL YEAR.—The term “school year”
16 has the meaning given such term in section 12(d) of
17 the Richard B. Russell National School Lunch Act
18 (42 U.S.C. 1760(d)).

19 (9) STATE ACCOUNTABILITY MEASURES.—The
20 term “State accountability measures” includes meas-
21 ures undertaken under an accountability system de-
22 veloped and implemented by a State under section
23 1111(b)(2) of the Elementary and Secondary Edu-
24 cation Act of 1965 (20 U.S.C. 6311(b)(2)).

1 **SEC. 107. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to carry out
3 this title \$300,000,000 for fiscal year 2009 and such sums
4 as may be necessary for each of the four succeeding fiscal
5 years.

6 **TITLE II—FAIR SHARE FOR**
7 **GOVERNMENT CONTRACTORS**

8 **SEC. 201. SHORT TITLE.**

9 This title may be cited as the “Fair Share Act of
10 2008”.

11 **SEC. 202. CERTAIN DOMESTICALLY CONTROLLED FOREIGN**
12 **PERSONS PERFORMING SERVICES UNDER**
13 **CONTRACT WITH UNITED STATES GOVERN-**
14 **MENT TREATED AS AMERICAN EMPLOYERS.**

15 (a) FICA TAXES.—Section 3121 of the Internal Rev-
16 enue Code of 1986 (relating to definitions) is amended by
17 adding at the end the following new subsection:

18 “(z) TREATMENT OF CERTAIN FOREIGN PERSONS AS
19 AMERICAN EMPLOYERS.—

20 “(1) IN GENERAL.—If any employee of a for-
21 eign person is performing services in connection with
22 a contract between the United States Government
23 (or any instrumentality thereof) and any member of
24 any domestically controlled group of entities which
25 includes such foreign person, such foreign person
26 shall be treated for purposes of this chapter as an

1 American employer with respect to such services per-
2 formed by such employee.

3 “(2) DOMESTICALLY CONTROLLED GROUP OF
4 ENTITIES.—For purposes of this subsection—

5 “(A) IN GENERAL.—The term ‘domesti-
6 cally controlled group of entities’ means a con-
7 trolled group of entities the common parent of
8 which is a domestic corporation.

9 “(B) CONTROLLED GROUP OF ENTITIES.—
10 The term ‘controlled group of entities’ means a
11 controlled group of corporations as defined in
12 section 1563(a)(1), except that—

13 “(i) ‘more than 50 percent’ shall be
14 substituted for ‘at least 80 percent’ each
15 place it appears therein, and

16 “(ii) the determination shall be made
17 without regard to subsections (a)(4) and
18 (b)(2) of section 1563.

19 A partnership or any other entity (other than a
20 corporation) shall be treated as a member of a
21 controlled group of entities if such entity is con-
22 trolled (within the meaning of section
23 954(d)(3)) by members of such group (includ-
24 ing any entity treated as a member of such
25 group by reason of this sentence).

1 “(3) LIABILITY OF COMMON PARENT.—In the
2 case of a foreign person who is a member of any do-
3 mestically controlled group of entities, the common
4 parent of such group shall be jointly and severally
5 liable for any tax under this chapter for which such
6 foreign person is liable by reason of this subsection.

7 “(4) CROSS REFERENCE.—For relief from taxes
8 in cases covered by certain international agreements,
9 see sections 3101(c) and 3111(c).”.

10 (b) SOCIAL SECURITY BENEFITS.—Subsection (e) of
11 section 210 of the Social Security Act (42 U.S.C. 410(e))
12 is amended—

13 (1) by striking “(e) The term” and inserting
14 “(e)(1) The term”,

15 (2) by redesignating paragraphs (1) through
16 (6) as subparagraphs (A) through (F), respectively,
17 and

18 (3) by adding at the end the following new
19 paragraph:

20 “(2)(A) If any employee of a foreign person is
21 performing services in connection with a contract be-
22 tween the United States Government (or any instru-
23 mentality thereof) and any member of any domesti-
24 cally controlled group of entities which includes such
25 foreign person, such foreign person shall be treated

1 for purposes of this chapter as an American em-
2 ployer with respect to such services performed by
3 such employee.

4 “(B) For purposes of this paragraph—

5 “(i) The term ‘domestically controlled
6 group of entities’ means a controlled group of
7 entities the common parent of which is a do-
8 mestic corporation.

9 “(ii) The term ‘controlled group of entities’
10 means a controlled group of corporations as de-
11 fined in section 1563(a)(1) of the Internal Rev-
12 enue Code of 1986, except that—

13 “(I) ‘more than 50 percent’ shall be
14 substituted for ‘at least 80 percent’ each
15 place it appears therein, and

16 “(II) the determination shall be made
17 without regard to subsections (a)(4) and
18 (b)(2) of section 1563 of such Code.

19 A partnership or any other entity (other than a
20 corporation) shall be treated as a member of a
21 controlled group of entities if such entity is con-
22 trolled (within the meaning of section 954(d)(3)
23 of such Code) by members of such group (in-
24 cluding any entity treated as a member of such
25 group by reason of this sentence).”.

1 (c) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to services performed after the
3 date of the enactment of this title.

○